



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2012-0271; FRL- 9664-2]

**Approval and Promulgation of Air Quality Implementation Plans; Maryland;
Removal of the 1980 Consent Order for the Maryland Slag Company**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Maryland State Implementation Plan (SIP). The revision removes a 1980 Consent Order issued to the Maryland Slag Company (now known as MultServ). The 1980 Consent Order is no longer required to satisfy any applicable Federal regulations and the Clean Air Act (CAA). EPA is approving this revision in accordance with the requirements of the CAA.

DATES: This rule is effective on [insert date 60 days after publication in the Federal Register] without further notice, unless EPA receives adverse written comment by [insert date 30 days after publication in the Federal Register]. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number **EPA-R03-OAR-2012-0271** by one of the following methods:

- A. www.regulations.gov. Follow the on-line instructions for submitting comments.
- B. E-mail: spink.marcia@epa.gov
- C. Mail: EPA-R03-OAR-2012-0271, Marcia L. Spink, Associate Director for Policy and Science, Air Protection Division, Mailcode 3AP00, U.S. Environmental Protection Agency,

Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. **EPA-R03-OAR-2012-0271**. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, (215) 814-2104, or by e-mail at spink.marcia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Maryland Slag Company (now MultiServ) operates a blast furnace slag processing plant at the Bethlehem Steel Corporation's (now ISG Sparrows Point) steel mill located in Sparrows Point, Baltimore County. Hot metal slag from Bethlehem Steel's blast furnace that is not processed by the Atlantic Cement Company's (now LaFarge North America) granulated slag cement plant is allowed to cool before being sent to the Maryland Slag processing facility. At the slag processing facility, slag is reduced in size with a crusher and segregated into different group sizes by a screening operation. The processed slag material is used as an aggregate material in road construction and parking lots. The slag processing facility is subject to the

requirements under SIP-approved regulation COMAR 26.11.10.04B(1) which prohibits the discharge of fugitive particulate matter emissions from iron and steel production installations unless reasonably available control measures are employed to minimize emissions.

In 1980, the Atlantic Cement Company proposed to construct a slag cement processing facility within the confines of the Bethlehem Steel Corporation's Sparrows Point steel mill. At the time of the proposed project, the Sparrows point area was nonattainment for total suspended particulates (TSP). In order to construct the plant, the Atlantic Cement Company was required to secure particulate matter emission offsets. These offsets were obtained from the Maryland Slag Company and were formalized and made enforceable in the October 31, 1980 Consent Order. The October 31, 1980 Consent Order was approved as a SIP revision by EPA on September 8, 1981 (41 FR 44757).

II. Summary of SIP Revision

On February 13, 2007, the Maryland Department of the Environment submitted a formal revision to its SIP. The SIP revision consists of a request to remove the Consent Order, issued on October 31, 1980, to the Maryland Slag Company (now MultiServ). The Consent Order provided particulate matter offsets from the Maryland Slag Company to the Atlantic Cement Company. The 1980 Consent Order is no longer necessary because the affected facilities are no longer located in a nonattainment area for TSP, and the Atlantic Cement Company (now Lafarge North America) was re-permitted in 2001 demonstrating compliance with the more stringent national ambient air quality standard for particulate matter with a diameter of 10 microns or less (PM₁₀). In addition, the Maryland Slag Company (now MultiServ) has reduced its annual PM

emissions by reducing the material it processes from one million tons annually in 1980 to less than 100,000 tons annually today.

III. Final Action

EPA is approving MDE's February 13, 2007 SIP revision to remove the October 31, 1980 Consent Order issued to the Maryland Slag Company (now MultiServ) because it is no longer required to satisfy any applicable Federal regulations and the Clean Air Act (CAA). EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's Federal Register, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on [insert date 60 days from date of publication in the Federal Register] without further notice unless EPA receives adverse comment by [insert date 30 days from date of publication in the Federal Register]. If EPA receives adverse comment, EPA will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided

that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by

the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action to remove the 1980 Consent Order for the Maryland Slag Company may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

Dated: April 12, 2012_

W. C. Early, Acting
Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52 - [AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart V--Maryland

2. In § 52.1070, the table in paragraph (d) is amended by removing the entry for Maryland Slag Co.

[FR Doc. 2012-10339 Filed 05/01/2012 at 8:45 am; Publication Date: 05/02/2012]